

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION NO: 03-12307RGS**

**JOSEPH CHRISTOFORO**  
Plaintiff,

v.

**SHERIFF FRANK G. COUSINS, ET AL**  
Defendants

**DEFENDANT FRANK G. COUSINS' ANSWER TO PLAINTIFF'S COMPLAINT**

**GENERAL ALLEGATIONS**

1. The defendant is without sufficient information to either admit or deny the allegations contained in paragraph 1.
2. The defendant admits to the allegations contained in paragraph 2.
3. The defendant admits to the allegations contained in paragraph 3.
4. The defendant is without sufficient information to either admit or deny the allegations contained in paragraph 4.
5. Paragraph 5 is jurisdictional in nature and does not require an admission or denial by the defendant. To the extent that there are allegations against the defendant in paragraph 5 they are hereby denied.
6. Paragraph 6 is jurisdictional in nature and does not require an admission or denial by the defendant.

**FACTUAL ALLEGATIONS**

7. The defendant admits to the allegations contained in paragraph 7.

8. The defendant admits to the allegations contained in paragraph 8.
9. The defendant admits that defendant Lupo was an employee of the Essex County Sheriff's Department but denies the remaining allegations contained in paragraph 9.
10. The defendant denies the allegations contained in paragraph 10.
11. The defendant denies the allegations contained in paragraph 11.
12. The defendant denies the allegations contained in paragraph 12.
13. The defendant denies the allegations contained in paragraph 13.
14. The defendant denies the allegations contained in paragraph 14.
15. The defendant denies the allegations contained in paragraph 15.
16. The defendant denies the allegations contained in paragraph 16.

#### **COUNT I**

- 17.-18. These allegations against defendant Lupo and do not require an admission or denial with respect to defendant Cousins.

#### **COUNT II**

19. The defendant reasserts his response to paragraphs 1 through 18 as if fully incorporated herein.
20. The defendant denies the allegations contained in paragraph 20.
21. The defendant denies the allegations contained in paragraph 21.
22. The defendant denies the allegations contained in paragraph 22.

**COUNT III**

23. These allegations are against certain unknown individuals and do not require admission or denial by defendant Cousins.

**DEMAND FOR JURY TRIAL**

The defendant requests a trial by jury on all counts.

**AFFIRMATIVE DEFENSES**

**First**

The plaintiff has failed to state a claim upon which relief can be granted.

**Second**

The plaintiff has failed to comply with the statute of limitations.

**Third**

The plaintiff has not exhausted his administrative remedies pursuant to the Prisoner Litigation Reform Act.

**Fourth**

The defendant is qualifiedly immune from liability.

**Fifth**

The plaintiff has waived liability.

**Sixth**

The plaintiff has released the defendant from liability.

**Seventh**

None of the allegations alleged by the plaintiff amount to a state or federal constitutional

or statutory violation.

**Eighth**

Any of the alleged injuries sustained by the plaintiff are the direct result of his own acts and/or omissions, and not that of the defendant.

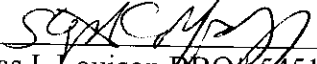
**Ninth**

The plaintiff is comparatively negligent.

**Tenth**

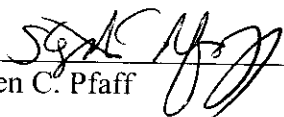
The plaintiff is contributorily negligent.

Defendant, Sheriff Frank G. Cousins,  
By his attorneys,

  
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**CERTIFICATE OF SERVICE**

I, Stephen C. Pfaff, hereby certify that on the 18th day of March, 2004, I served the foregoing by causing a copy to be mailed, postage prepaid, directed to Joseph T. Desmond, Esquire, McCormick & Maitland, 144 Main Street, P.O. Box S18, Norfolk, MA 02056.

  
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Stephen C. Pfaff

